

CONNECTICUT SITING COUNCIL

APPLICATION OF THE UNITED ) DOCKET NO. 516  
ILLUMINATING COMPANY (UI) TO THE )  
CONNECTICUT SITING COUNCIL FOR A )  
CERTIFICATE OF ENVIRONMENTAL ) NOVEMBER 9, 2023  
COMPATIBILITY AND PUBLIC NEED FOR )  
THE CONSTRUCTION MAINTENANCE )  
AND OPERATION OF A FAIRFIELD TO )  
CONGRESS RAILROAD TRANSMISSION )  
LINE 115-kV REBUILD PROJECT ALONG )  
APPROXIMATELY 7.3 MILES OF THE )  
CONNECTICUT DEPARTMENT OF )  
TRANSPORTATION'S METRO-NORTH )  
CORRIDOR BETWEEN STRUCTURE B648S )  
LOCATED AT THE END OF SASCO CREEK )  
IN FAIRFIELD AND UI'S CONGRESS )  
STREET SUBSTATION IN BRIDGEPORT, CT)

/

**APPLICATION OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION  
TO INTERVENE UNDER C.G.S. §§ 22a-19, 4-177a, 16-50g AND 16-50n**

Pursuant to Connecticut General Statutes §§ 22a-19, 4-177a, 16-50g and 16-50n, the NATIONAL TRUST FOR HISTORIC PRESERVATION, a 501(c)(3) non-profit organization located at 600 14<sup>th</sup> Street NW, Suite 500, Washington, DC 20005 (hereinafter the "Proposed Intervenor") hereby moves and petitions the Connecticut Siting Council (hereinafter the "Council") to be a party intervenor in the above application by The United Illuminating Company (hereinafter "UI") for a certificate of Environmental Compatibility and Public Need for the construction, rehabilitation and maintenance of a 115-kV transmission line that consists of the relocation and rebuild of its existing 115-kilovolt (kV) electric transmission lines from the railroad catenary structures to new steel monopole structures and related modifications along

approximately 7.3 miles of the Connecticut Department of Transportation's Metro-North Railroad corridor between Structure B648S located east of Sasco Creek in Fairfield and UI's Congress Street Substation in Bridgeport, Connecticut, together with the rebuild of two existing 115-kV transmission lines along 0.23 mile of existing UI right-of-way to facilitate interconnection of the rebuilt 115-kV electric transmission lines at UI's existing Ash Creek, Resco, Pequonnock and Congress Street Substations traversing the municipalities of Bridgeport and Fairfield, Connecticut (the "Project"). The Proposed Intervenor represents that its participation is in the interests of justice and the environment and that its participation will not impair the orderly conduct of the proceeding.

In support of this request, the Proposed Intervenor states the following:

1. The names and address of the Proposed Intervenors are as follows:

The National Trust for Historic Preservation:

c/o Thompson M. Mayes, Chief Legal Officer and General Counsel  
The National Trust for Historic Preservation  
600 14<sup>th</sup> Street NW, Suite 500  
Washington, DC 20005

2. The Proposed Intervenor is a private nonprofit organization chartered by Congress in 1949 to "facilitate public participation" in the preservation of our nation's heritage, and to further the historic preservation policy of the United States. *See* 54 U.S.C. § 312102(a). Congress intended the Proposed Intervenor "to mobilize and coordinate public interest, participation and resources in the preservation and interpretation of sites and buildings." S. Rep. No. 1110, 81st Cong., 1st Sess. 4 (1949). With more than one million members and supporters around the country, the Proposed Intervenor works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government.

3. The Proposed Intervenor has been designated by Congress as a member of the Advisory Council on Historic Preservation, which is responsible for working with federal agencies to implement compliance with Section 106 of the National Historic Preservation Act. 54 U.S.C. §§ 304101(8), 304108(a).

4. The Proposed Intervenor has also participated, both as *amicus curiae* and as a party, in hundreds of cases in federal and state courts relating to the enforcement or application of laws that promote the preservation of historic places, including the Connecticut Environmental Protection Act (CEPA), Conn. Gen. Stat. §§ 22a-1 to 22a-1h.

5. The Proposed Intervenor is extremely concerned about the threatened adverse impact of the Application on a wide variety of historic properties. The potential for unreasonable destruction of these resources could be avoided and minimized by alternative alignments for the project, which should be adopted. As a result of these threatened impacts, the Proposed Intervenor has invited Preservation Connecticut to submit a nomination for this historic corridor to the 2024 list of *America's 11 Most Endangered Historic Places*, which will be announced in May of 2024.

6. The construction and existence of UI's proposed towers and transmission wires will have a severe negative impact on the nationally recognized Southport Historic District, as well as many other historic properties, scenic vistas and the general character and harmony of this very sensitive historic area. Pursuant to C.G.S. §§ 22a-19, 16-50n, 16-50g and 4-177a, the Proposed Intervenor has a direct interest in the proceedings because the proposed project will specifically and substantially threaten the preservation of nationally recognized historic properties in Southport and Fairfield, CT. The Proposed Intervenor seeks to intervene in the above proceedings for the purpose of submitting testimony and other evidence relevant to the Connecticut Siting Council's consideration of Docket 516.

7. The Proposed Intervenor hereby presents this verified pleading, pursuant to C.G.S. § 22a-19, for the purpose of asserting that evidence and testimony shall be presented in order to demonstrate that the activity proposed by UI for the Project Area is likely to unreasonably harm the public trust in the air, water or other natural resources of the State of Connecticut, as well as important national historic resources. For example, if granted, UI towers and transmission wires will unreasonably impact the nationally recognized Southport Historic District, as well as historic properties, scenic vistas and the general character and harmony of this very sensitive historic area.

8. The Proposed Intervenor seeks to present evidence and testimony that will demonstrate that the severe adverse impact on historic and environmental resources from UI's towers and transmission wires could be reasonably minimized and/or mitigated by the use of alternate locations and/or alternative design options for the Project.

9. The Proposed Intervenor seeks to present evidence and testimony to demonstrate that, pursuant to C.G.S. § 16-50g, any need for adequate and reliable public utility service that will be fulfilled by the UI towers and transmission wires will be significantly outweighed by the need to protect the environment and ecology of the State and to minimize damage to scenic, historic, recreational and property values.

10. The Connecticut Siting Council should be aware of the statutory requirements that apply to interventions pursuant to C.G.S. § 22a-19, also known as the Connecticut Environmental Protection Act (hereinafter "EPA"). Section 22a-19(a) provides that any person "may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other

natural resources of the state.” Section 22a-19(b) provides that the Connecticut Siting Council “shall consider the alleged unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state and no conduct shall be authorized or approved which does, or is reasonably likely to, have such effect as long as, considering all relevant surrounding circumstances and facts, there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.”

“The purpose of the EPA is to give private citizens a voice in ensuring that the air, water and other natural resources of the state remain protected, preserved and enhanced, and to provide them with an adequate remedy to protect the air, water and other natural resources from unreasonable pollution, impairment or destruction.” (Internal quotation marks and citations omitted); Avalon Bay Communities, Inc. v. Coning Comm’n of the Town of Stratford, 87 Conn. App. 537, 547 (2005); *see also* Branhaven Plaza, LLC v. Inland Wetlands Comm’n of Town of Branford, 251 Conn. 269, 276 (1999). The Connecticut Courts have consistently held that a plaintiff seeking to assert a claim under C.G.S. § 22a-19 merely needs to articulate a colorable claim of unreasonable pollution, impairment or destruction of the environment. Finley v. Inland Wetlands Comm’n of Town of Orange, 289 Conn. 12, 35 (2008); Windels v. Environmental Protection Comm’n, 284 Conn. 268, 289-90 (2007). “Statutes such as the EPA are remedial in nature and should be liberally construed to accomplish their purpose.” Avalon Bay Communities, Inc., 87 Conn. App. at 548; *see also*, Keeney v. Fairfield Resources, Inc., 41 Conn. App. 120, 132-33 (1996).

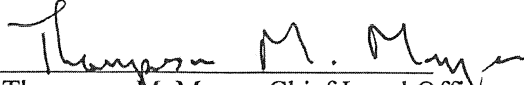
“Section 22a-19(a) makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded.” Avalon Bay Communities, Inc., 87 Conn. App. at 543; *see also*, Polymer Resources, Ltd. v.

Keeney, 23 Conn. App. 340, 348-49 (1993) (“[Section] 22a-19[a] compels a trial court to permit intervention in an administrative proceeding or judicial review of such a proceeding by a party seeking to raise environmental issues upon the filing of a verified complaint. The statute is therefore not discretionary.”). The one who files a verified pleading under § 22a-19 becomes a party to the administrative proceeding upon doing so and that person then has statutory standing to appeal for the limited purpose of raising environmental issues. Mystic Marinelife Aquarium v. Gill, 175 Conn. 483, 490 (1978).

Upon the filing of the verified pleading and approval by the Council, the Proposed Intervenor shall become a party with statutory standing to appeal, and that right to appeal is independent of any other party. Mystic Marinelife Aquarium, 175 Conn. at 499-500. Even the denial of an application to intervene under § 22a-19 may be appealed by filing an original appeal for improper denial of intervenor status. CT Post Limited Partnership v. New Haven City Planning Commission, Conn. Sup. 2000 WL 1161131 (July 21, 2000, Downey, J.).

For the above stated reasons, the Proposed Intervenor respectfully requests that its application for intervenor status, pursuant to C.G.S. §§ 22a-19, 16-50n and 4-177a, be granted by this Honorable Council.

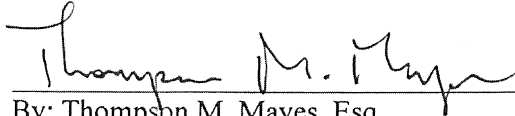
**RESPECTFULLY SUBMITTED BY:  
THE NATIONAL TRUST FOR HISTORIC PRESERVATION**

BY:   
Thompson M. Mayes, Chief Legal Officer and General Counsel  
The National Trust for Historic Preservation  
600 14<sup>th</sup> Street NW, Suite 500  
Washington, DC 20005  
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202-588-6000

VERIFICATION

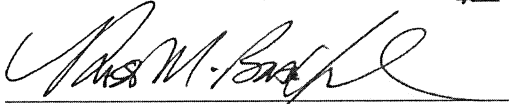
I, Thompson M. Mayes, being the Chief Legal Officer and General Counsel of the National Trust For Historic Preservation, being duly sworn, hereby verify on behalf of said entity, the National Trust for Historic Preservation, that the above application is true and accurate to the best of my knowledge and belief.

National Trust For Historic Preservation



By: Thompson M. Mayes, Esq.  
Its: Chief Legal Officer and General Counsel

Sworn and subscribed before me this 9<sup>th</sup> day of November, 2023.



Name: Ross M. Bradford  
Notary Public / My Commission Expires: 6-14-2027

